

Amendment & Response
Application No.: 10/640,986
Attorney Docket No.: EP-7606

REMARKS

Applicant submits this response to the Office Action mailed March 17, 2006. In the Office Action, claims 1-5 and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by FR 2181607. Claims 1-4, 6-8 and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by WO 8700193. Claims 6 and 7 are rejected under 35 U.S.C. §103(a) as being unpatentable over the FR '607 reference. And claims 8-13 are rejected under 35 U.S.C. §103(a) as being unpatentable over FR '607 in view of WO '362 and SOLVESSO 150. In view of the foregoing amendment, and for one or more of the following reasons, Applicant submits that the rejections are all traversed.

The present invention is directed to a combustion additive for protecting and improving the operation of diesel fuel combustion systems. The claimed additive is effective when subjected to cold temperature conditions. The language added by amendment to claim 1, the sole independent claim pending in the application, emphasizes that the additive mixture must have the physical attribute of a cloud point less than -40° C in order to make it effective in extreme cold conditions. Additionally, the additive formulation is engineered to be used with modern direct injected diesel engines equipped with turbo-chargers, hydraulically activated unit injectors, electronically controlled fuel injection with rate-shaping capabilities, exhaust gas recirculation systems, and other advanced emission controls.

Turning now to the cited FR '607 and WO '193 references, Applicant submits that nowhere do those references disclose an additive comprising iron naphthenate and having a flash point greater than about 55° C and a cloud point less than -40° C. These additive composition physical requirements, as noted earlier, have been found to be effective both in cold temperature conditions and when used in connection with modern emission controls systems. The FR '607 and the WO '193 references do not disclose such a combustion additive. Further, they do not disclose their use in connection with cold temperature conditions. Still further, the modern emission control systems and engine systems that benefit from the claimed invention are nowhere mentioned in the FR '607 and WO '193 references. (None of these modern systems existed in 1974 and 1985 – the dates of the cited references). Therefore, in addition to failing to disclose the claim limitations, it is clear

Amendment & Response
Application No.: 10/640,986
Attorney Docket No.: EP-7606

that the claim limitations would not have been suggested or taught by the cited references. Likewise, the WO '362 patent cited in connection with the obviousness rejections fails to teach the claim limitation directed to an additive having a cloud point less than -40°C . In fact, Applicant has studied all of the cited references and has not identified any disclosure of an additive mixture having a cloud point less than -40°C . Therefore, none of the cited references or combinations thereof are sufficient to anticipate or render obvious the claimed invention.

In addition to the foregoing, Applicant submits that the obviousness rejection based on the combination of the FR '607 reference, the WO '362 reference and the SOLVESSO 150 reference is not supported by the teachings of those references themselves. Applicant believes that the Examiner has necessarily used the present application as the map and motivation to combine these references. Respectfully, Applicant believes that the only basis for combination of the cited references is hindsight. For this additional reason alone, Applicant submits that any obviousness rejection based on the combination of these references is traversed.

For any one or more of the foregoing reasons, and further in view of the foregoing amendments, Applicant submits that the present application is now in condition for allowance. All rejections are traversed. Favorable action is requested hereon.

FEES

It is believed that there are no fees associated with this filing. However, in the event the calculations are incorrect, the Commissioner is hereby authorized to charge any deficiencies in fees or credit any overpayment associated with this communication to Deposit Account No. 05-1372.

Respectfully submitted,



Dennis H. Rainear, Reg. No. 32,486

330 South Fourth Street
Richmond, Virginia 23219
Phone: (804) 788-5516; FAX: (804) 788-5519
E-Mail: Dennis.Rainear@NewMarket.com

Date: June 2, 2006